

# N.W. Bernstein & Associates, LLC

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March 11, 2003

Via Telecopy and Federal Express

Evan van Hook  
Assistant Commissioner  
Site Remediation  
N.J. Department of Environmental Protection  
401 State Street, 6<sup>th</sup> Floor  
Trenton, New Jersey 08625

George Pavlou, Director  
U. S. Environmental Protection Agency  
Emergency Response & Remediation  
Division  
290 Broadway  
New York, New York 10007

Re: Duane Marine Site

Dear Sirs:

This is to respond to the letter from William J. Friedman to you dated March 7, 2003, which we received yesterday. The letter purports to summarize "agreements reached" at the March 3, 2003 meeting.

In the past the Duane Marine Steering Committee has worked cooperatively with both EPA and the NJDEP with regard to the Duane Marine site and would hope to continue to do so in the future. However, I am concerned that Mr. Friedman's letter could lead to misunderstandings.

Contrary to Mr. Friedman's letter, no agreements have been reached at this time, no one has asked the Duane Marine Steering Committee to "perform an RI/FS" as stated in his letter, and it may be premature at this time to state that this preliminary meeting is the start of a "major thrust to move the remediation of the Duane Marine site forward."

What was discussed was significantly more limited. As requested at the meeting, I have advised the Duane Marine Steering Committee of the desire of NJDEP and EPA to hear back by May 2, 2003 as to whether the Duane Marine Steering Committee on behalf of the larger PRP Group is prepared to move forward toward a consent order to undertake further characterization of the site, both upland and in the sediments. An additional sixty days would likely be needed to negotiate the actual order. As discussed, additional communications need to take place before we respond. It is our understanding that the purpose of the proposed work would not be to conduct an RI/FS but rather to build on existing data to better characterize the risks and delineate areas of impact. An RI/FS was previously performed at this site.

As I understand it, the probable consequence of the Steering Committee not responding affirmatively by May 2, 2003, is an increased likelihood that the NJDEP will recommend to EPA

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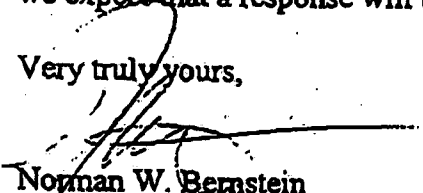
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that the site be listed on the NPL. Such a listing, were it to come about, would make more difficult (if not impossible) what Mr. Friedman's client wants to accomplish - which is to develop the property for residential use.

As also discussed at the meeting, the Duane Marine Steering Committee may request additional information and technical consultations with EPA and/or NJDEP prior to responding. Additionally, NJDEP indicated that it would assist in providing additional information, including information regarding General Cable or its successors.<sup>1</sup> As also discussed at the meeting, any response on behalf of the Steering Committee is likely to be conditioned on equitable financial participation by the developer. It is simply unfair to ask people to cleanup to residential standards so that the developer can develop the property and make a profit on our investment.

As noted above, we hope to continue to work with the NJDEP and EPA in a cooperative way and we expect that a response will be provided by May 2, 2003.

Very truly yours,

  
Norman W. Bernstein

cc: Frank Faranca, DEP  
Michael van Itallie, Esq., EPA  
George Carfagno, Landings  
Dan Duncan, Landings  
Ken Paul, Ecol Sciences  
Leah Healey, Esq.  
Helga Crowley, PARA  
Ed Putnam, DEP  
Mel Hauptman, EPA  
Lisa Rosman, NOAA  
William J. Friedman

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<sup>1</sup> We understand General Cable was a former owner of what is now the Duane Marine site and that some of the environmental concerns at the site may be attributable to General Cable. Additionally, we also understand that General Cable is an owner of adjacent parcels and that an industrial sewer from General Cable runs beneath the Duane Marine site. NJDEP has previously agreed, as to the Duane Marine site, that leakage from that sewer is an "upgradient" source.